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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/025,313

12/18/2001

Kenneth A. Ullrich

ULR 302A

8052

23581

7590

08/25/2005

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EXAMINER

MEI, XU

ART UNIT

PAPER NUMBER

2644

DATE MAILED: 08/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/025,313	ULLRICH, KENNETH A.	
	Examiner	Art Unit	
	Xu Mei	2644	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 18 December 2001.
- 2a) ☒ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>06/06/2002</u> . | 6) <input type="checkbox"/> Other: _____  |

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**DETAILED ACTION**

1. This communication is responsive to the applicant's continuation (parent case 09/183,497) filed 12/18/2001.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-2 and 5-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Petersen (US-5,282,251).

Regarding claim 1, Petersen teaches an assistive-listening system (Fig. 1) for use with sound-producing equipment (a TV or a record or cassette player or other device; see col. 1, lines 7-8 and col. 2, lines 20-22. The TV is used as an explanation example hereinafter), the sound-producing equipment including a signal source (the TV have an audio signal source) and first (speaker system of the TV or the TV speaker(s)) and second sound sources (speakers 5 or 6 of Fig. 1) operatively associated with

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the signal source and configured to produce sound corresponding to signals received from the signal source (TV received audio signal), the assistive-listening system comprising: a volume control operatively associated with the signal source (volume control for the TV) and configured to proportionally change the volume of both the first and second sound sources (the volume of the TV controlling both the TV speaker(s) and speaker 5 or 6 when speaker 5 or 6 with audio wire is plugged into the sound reproducing device or TV); and a support structure configured to support and position the second sound source (up rights 2 or 18 for supporting and positioning the second sound source, i.e., speaker 5 or 6) so that a hearing-impaired listener may listen effectively to sound controlled by the volume control without disturbing normal-hearing listeners.

Regarding claim 2, Petersen teaches the support structure (up rights 2 or 18) of the assistive-listening system positions the second sound source such that it's closer to the hearing-impaired listener than the first sound source (impaired-hearing listener sits in his/her chair with the assistive-listening system with the second sound source, i.e., speakers 5 or 6 that is closer to he/she than the first sound source, i.e., the TV speaker, see Fig. 1).

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Regarding claim 5, Petersen teaches the assistive-listening system including a second volume control configured to change the volume of the second sound source without affecting the volume of the first sound source (see col. 3, lines 17-30). Regarding claim 6, Petersen teaches a method of assistive-listening (Fig. 1) for use with sound-producing equipment (a TV or a record or cassette player or other device; see col. 1, lines 7-8 and col. 2, lines 20-22. The TV is used as an explanation example hereinafter) for listeners, the sound-producing equipment including a signal source (the TV have an audio signal source) and first (speaker system of the TV or the TV speaker(s)) and second sound sources (speakers 5 or 6 of Fig. 1) operatively associated with the signal source and configured to produce sound corresponding to signals received from the signal source (TV received audio signal), the method comprising: providing the first sound source for normal-hearing listeners (the TV speaker(s) is used for normal-hearing listeners); providing the second sound source (speaker 5 or 6) for a hearing impaired listener, where the second sound source is positioned closer to the hearing-impaired listener than the first sound source (impaired-hearing listener sits in his/her chair with the assistive-listening system where the second sound source, i.e., speakers 5 or 6 is closer to he/she than the first sound source,

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i.e., the TV speaker); providing a volume control operatively associated with the signal source and configured to proportionally change the volume of both the first and second sound sources (a volume control operatively associated with the signal source, i.e., volume control for the TV and the volume control is configured to proportionally change the volume of both the first and second sound sources, i.e., TV speaker(s) and speaker 5 or 6, when the second sound source with audio wire is plugged into the sound reproducing device); and where the second sound source permits the hearing-impaired listener to listen effectively to sound controlled by the volume control without disturbing normal-hearing listeners (see col. 3, lines 17-30).

***Claim Rejections - 35 U.S.C. § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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5. Claims 3-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Petersen.

Regarding claims 3-4, Petersen teaches an assistive-listening system is discussed above. Petersen did not specially teach the assistive-listening system with the support structure positions the second sound source (speakers 5 or 6) generally above (as per claim 3) or within six inches (as per claim 4) of the hearing-impaired listener's head without touching, such that sound is directed generally downward onto the hearing-impaired listener.

However, Petersen teaches the assistive-listening system with the support structure positions the second sound source (speaker 5 or 6) is moveably attached to its bracket and the hearing-impaired listener is able to adjust the position the second sound source, i.e., speaker 5 or 6, to produce the desired direction of the audio signal (see col. 3, lines 3-8 and lines 17-20). It would have been obvious for one of ordinary skill in the art to adjust the second sound source (speaker 5 or 6) of Petersen to a desired or optimal position which is generally above (as per claim 3) or within six inches (as per claim 4) of the hearing-impaired listener's head according to the personal desired of the hearing-impaired listener, in order to produce the desired direction of the audio signal to the

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hearing-impaired listener. The sound is inherently directing downward onto the hearing-impaired listener (i.e., his/her ear(s) when the speaker is positioned above the listener's head.

6. This is a continuation of applicant's earlier Application No. 09/183,497. All claims are drawn to the same invention claimed in the earlier application (same claims as filed in original application) and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the earlier application. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action in this case. See MPEP § 706.07(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no, however,




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event will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Xu Mei whose telephone number is 571-272-7523. The examiner can normally be reached on Monday-Friday (9:30-6:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vivian Chin can be reached on 571-272-7848. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Xu Mei  
Primary Examiner  
Art Unit 2644  
08/09/2005